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EV548206339US Rfw

Attorney Docket No.: 2001-8050-RA
PATENT 3743

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application Serial No.: 10/090,268)
Filed: March 4, 2002) Examiner: Ragonese, Andrea
Inventor: WYCKOFF, Robert) Art Unit: 3743
For: SLEEP APNEA DEVICE AND METHOD)
THEREOF)

RESPONSE TO OFFICE ACTION

Mail Stop Response - No Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Myers & Kaplan,
Intellectual Property Law, L.L.C.
1899 Powers Ferry Road
Suite 310
Atlanta, GA 30339

September 13, 2004

Dear Ms. Ragonese,

Responsive to the Office Action mailed August 11, 2004, in the above-styled patent application, please note election as indicated and amend the application as indicated. Please find enclosed a Status of All Claims.

CERTIFICATE OF EXPRESS MAILING

I hereby certify that this correspondence, along with any papers referred to therein as being attached or enclosed therewith, is being deposited with the United States Postal Service with sufficient postage as Express Mail, No. EV548206339US, in an envelope addressed to the Commissioner for Patents,

P.O. Box 1450, Alexandria, VA, 22313-1450 on:

September 13, 2004

(Date)

LaRenda Meyer

Name of the person mailing the paper or fee

(Signature of the person mailing)

RESTRICTION ELECTION

Examiner has withdrawn the previous restriction requirement of February 11, 2004. Applicant has amended the status of Claim 20 to confirm that Claim 20 is not withdrawn, but remains pending.

Pursuant to Examiner's restriction requirement, Applicant elects Species I, Claims 1-20. Applicant respectfully traverses said restriction.

Applicant respectfully asserts that Claims 21-24 cannot be practiced by another different apparatus, nor can the apparatus, an air pathway clearance device, as claimed, be used to practice another materially different process. The apparatus, as claimed and in use, creates negative pressure within the airtight zone. Thus, it would not be utilized for a process not requiring such a feature or function. Applicant therefore respectfully asserts that the restriction requirement should be withdrawn.